

Ordinance No: 17-04  
Subdivision Regulation Amend. No. 11-01  
Concerning: Adequate Public Facilities -  
Preliminary Subdivision Plans  
- Validity Period  
Revised: 1/7/11; Draft No. 2  
Introduced: January 18, 2011  
Public Hearing: March 1, 2011  
Adopted: March 15, 2011  
Effective: April 1, 2011

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Council President Ervin, Councilmember Floreen, Council Vice President Berliner, and  
Councilmembers Leventhal, Navarro, and Riemer

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**AN AMENDMENT to:**

- (1) extend the validity period for a determination of adequate public facilities for certain developments;
- (2) extend the validity period for certain preliminary subdivision plans; and
- (3) otherwise revise the validity period for certain developments.

By amending

Montgomery County Code  
Chapter 50, Subdivision of Land  
Sections 50-20 and 50-35

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

## OPINION

Subdivision Regulation Amendment 11-01 was introduced on January 18, 2011 at the request of Council President Ervin, Councilmember Floreen, Council Vice President Berliner, and Councilmembers Leventhal, Navarro, and Riemer to temporarily extend the validity period of a finding of adequate public facilities and an approval of a preliminary plan of subdivision by the Planning Board.

The Council held a public hearing on March 1, 2011 to receive testimony concerning the proposed amendment. The Council's Planning, Housing, and Economic Development Committee considered this SRA at a worksession on March 7, 2011 and recommended that it be enacted as introduced.

The District Council reviewed Subdivision Regulation Amendment 11-01 at a worksession held on March 15, 2011 and enacted the Amendment as recommended by the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this Amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 11-01 will be approved.

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following Ordinance:*

**Sec. 1. Section 50-20 and Section 50-35 are amended as follows:**

**50-20. Limits on issuance of building permits.**

\* \* \*

(c) \* \* \*

(3) (A) A determination of adequate public facilities made under this Chapter is timely and remains valid:

(i) for 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;

(ii) for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after October 19, 1999, but before August 1, 2007;

(iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, [2011] 2013; and

(iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, [2011] 2013.

\* \* \*

(4) The Planning Board may extend a determination of adequate public facilities for an exclusively residential subdivision

beyond the otherwise applicable validity period if the Department has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development ~~[[do]]~~ does not exceed:

(A) for a preliminary plan approved before April 1, 2009, or on or after April 1, [2011] 2013:

(i) 2½ years for a subdivision with an original validity period of 5 years; or

(ii) 6 years for a subdivision with an original validity period longer than 5 years; and

(B) for a preliminary plan approved on or after April 1, 2009, and before April 1, [2011] 2013:

(i) 2½ years for a subdivision with an original validity period of 7 years; or

(ii) 6 years for a subdivision with an original validity period longer than 7 years.

\* \* \*

#### **50-35. Preliminary subdivision plan-Approval procedure.**

\* \* \*

(h) *Duration of Validity Period and Actions Required to Validate the Plan.*

\* \* \*

(2) *Duration of Validity Period.*

(A) An approved preliminary plan for a single phase project remains valid for 60 months after its Initiation Date for any preliminary plan approved on or after April 1, 2009, but

55 before April 1, [2011] 2013, and for 36 months after its  
56 Initiation Date for any preliminary plan approved on or  
57 after April 1, [2011] 2013. Before the validity period  
58 expires, the applicant must have secured all government  
59 approvals necessary to record a plat, and a final record plat  
60 for all property delineated on the approved preliminary  
61 plan must have been recorded in the County land records.

- 62 (B) An approved preliminary plan for a multi-phase project  
63 remains valid for the period of time allowed in the phasing  
64 schedule approved by the Planning Board. [Each phase  
65 must be assigned] The Planning Board must assign each  
66 phase a validity period on a case-by-case basis, the  
67 duration of which [must be proposed by] the applicant  
68 must propose as part of an application for preliminary plan  
69 approval, [or for preliminary plan] revision, or amendment,  
70 [and approved on a case-by-case basis by the Planning  
71 Board,] after considering such factors as the size, type, and  
72 location of the project. The time allocated to any phase  
73 must not exceed 60 months after the initiation date for that  
74 particular phase for any preliminary plan approved on or  
75 after April 1, 2009, but before April 1, [2011] 2013, and  
76 36 months after the initiation date for that particular phase  
77 for any preliminary plan approved on or after April 1,  
78 [2011] 2013. The cumulative validity period of all phases  
79 must not exceed the APFO validity period which [runs  
80 from] begins on the date of the initial preliminary plan  
81 approval, including any extension granted under Section

50-20(c)(5). A preliminary plan for a phase is validated when a final record plat for all property delineated in that phase of the approved preliminary plan is recorded in the County land records.

\* \* \*

**Sec. 2. Effective Date.** This amendment takes effect on April 1, 2011.

**Sec. 3. Automatic Extensions.**

(a) Notwithstanding any provision of Section 50-20(c) to the contrary, the validity period of any determination of adequate public facilities that was valid on March 31, 2009, or for which a timely application for an extension of the validity period was pending on March 31, 2009, is automatically extended for 4 years after the date when the validity period would otherwise have expired. This 4-year extension includes any extension granted automatically by Ordinance 16-35 and must be treated for all purposes as part of the validity period that was extended.

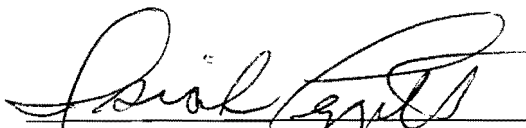
(b) Notwithstanding any provision of Section 50-35(h) to the contrary, the validity period of any preliminary subdivision plan that was valid on March 31, 2009, or for which a timely application for an extension of the validity period was pending on March 31, 2009, including any separate phase of a multi-phase plan, is automatically extended for 4 years after the date when the validity period would otherwise have expired. This 4-year extension includes any extension granted automatically by Ordinance 16-35 and must be treated for all purposes as part of the validity period that was extended.

(c) Notwithstanding any provision of Section 50-20(c) to the contrary, the validity period of any determination of adequate public facilities that was valid on March 31, 2011, or for which a timely application for an

extension of the validity period was pending on March 31, 2011, is automatically extended for 2 years after the date when the validity period would otherwise have expired. This 2-year extension must be treated for all purposes as part of the validity period that was extended.

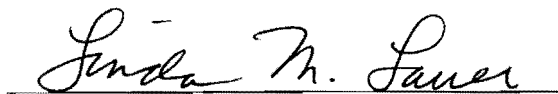
(d) Notwithstanding any provision of Section 50-35(h) to the contrary, the validity period of any preliminary subdivision plan that was valid on March 31, 2011, or for which a timely application for an extension of the validity period was pending on March 31, 2011, including any separate phase of a multi-phase plan, is automatically extended for 2 years after the date when the validity period would otherwise have expired. This 2-year extension must be treated for all purposes as part of the validity period that was extended.

*Approved:*

  
Isiah Leggett, County Executive

March 24, 2011  
Date

*This is a correct copy of Council action.*

  
Linda M. Lauer, Clerk of the Council

March 28, 2011  
Date